

38 16

LETTER

TO THE

Editors of the N. J. Evening Post,

IN REPLY

TO A

CITIZEN OF NEW JERSEY.

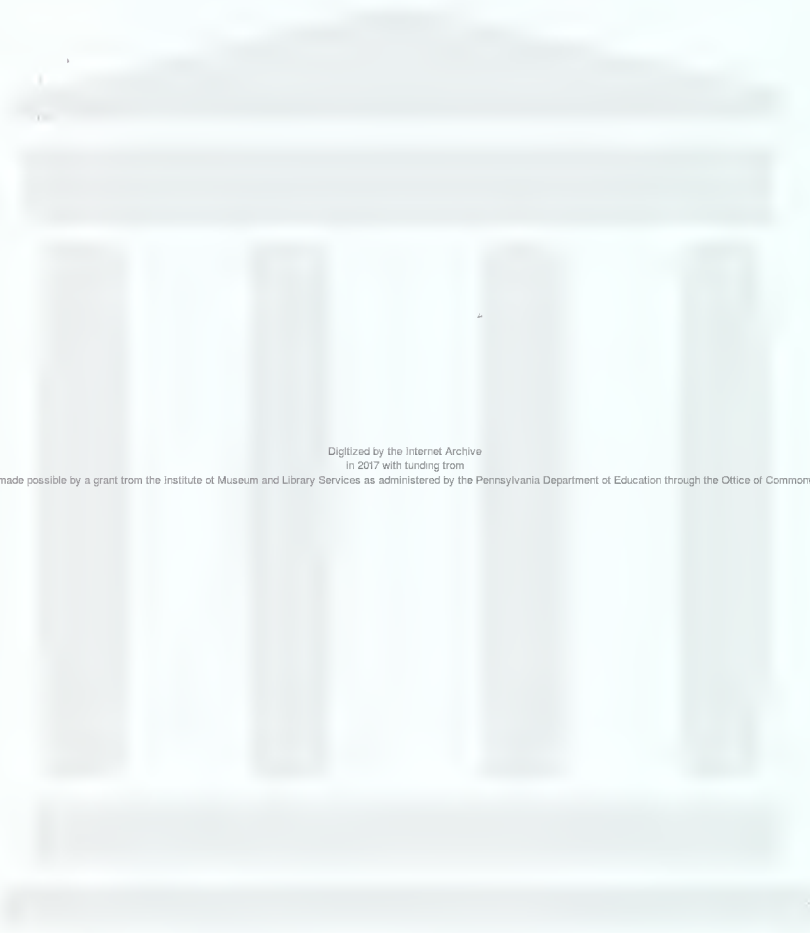
BY

R. F. STOCKTON.

PHILADELPHIA :

KING & BAIRD, PRINTERS, 607 SANSON STREET.

1864.



Digitized by the Internet Archive
in 2017 with funding from

This project is made possible by a grant from the Institute of Museum and Library Services as administered by the Pennsylvania Department of Education through the Office of Commonwealth Libraries

To the Editors of the
New York Evening Post:

PRINCETON, May 25, 1864.

The second letter of your correspondent, a "CITIZEN OF NEW JERSEY," has recently been brought to my notice.

That letter is of marked ability, and its spirit is liberal and friendly; yet there are portions of it, expressing sentiments in which I cannot concur, and which I cannot suffer to remain without dissenting comment. I refer to the following paragraphs, among others:

"Viewed in the light of the present day and from that advanced point which we have reached in the march of internal improvement, it is easy to condemn them." (Exclusive privileges.)

"I am willing to admit as a general proposition, that laws conferring *such exclusive privileges either on individuals or corporations are unwise and inexpedient.*"

“Monopolies are deservedly odious; not only in this country, but in that also from which we derived our laws and institutions, they have always been the peculiar objects of popular jealousy and popular complaint.

“The lofty spirit of England’s haughtiest sovereign was cowed by the clamor which her monopolies invoked from a House of Commons, usually submissive.”

“The Citizen” confounds the monopolies granted by the Tudors and Stuarts of England, (when the crown exercised despotic powers incompatible with the principles of a constitutional government;) with those privileges granted by the legislature for a limited time, to secure some great benefit to the country at large. The analogy between the two is very imperfect. The one, was usually granted to court favorites, for a corrupt consideration, and was an odious burden on the people, without any compensating advantage to them. The one, also, was by virtue of an illegal stretch of prerogative, and frequently granted in the teeth of parliamentary remonstrance. The other, owes its origin to a desire to promote the public welfare; to develop state wealth and

supply the state treasury, is limited in duration, and reverts to the state when the limitation expires, if the state for the stipulated consideration, choose to become its sole proprietor.

The wise men who framed the Constitution of the United States, were well versed in English history. The struggles of their ancestors with the Stuarts, were fresh in their memories. They knew *what* monopolies the Eliots, the Pymys, the Hampdens, and the Republicans of their day denounced; yet they approved the grant of exclusive privileges when made for the public good.

In Section 8th of Article 1st of the Constitution of the United States, we read, that "Congress shall have power to promote the progress of science, and the useful arts, by securing for limited times to authors and inventors the exclusive right to their respective rights and discoveries."

No one will question the justice, wisdom and sound statesmanship which dictated that provision of the Constitution, nor will deny, that its influence on the prosperity and advancement of industry and the arts has been most salutary.

In my previous letter to you, I took a general view of the origin of the joint companies, and the principles which influenced the people of New Jersey in adopting their peculiar system of internal improvements. I did not sufficiently for my own satisfaction vindicate the wisdom of their action at that epoch—thirty years ago.

But lest I may be considered among those who stigmatize their policy as unwise and inexpedient, I propose through your columns to show that the policy adopted by New Jersey in 1830, is a wise and just policy, and incapable of any proper impeachment.

I thought that policy sound and judicious then, and I continue of the same opinion now; indeed, I think better of that policy now; I believe, that, all things considered, in the light of thirty years experience, the action of 1831 was most wise. In relation, however, to the concessions of “A Citizen of New Jersey,” I must be permitted to enter my protest.

It is an abuse of language to confound a privilege, right, or franchise, purchased for a valuable consideration, with the odious monopolies granted to court favorites by the English kings, when the prerogative of the monarch

was made to override the law of the land, the rights of freemen, and the public welfare.

“A Citizen of New Jersey” has clearly (through inadvertence, perhaps), fallen into this common error. And it is to correct this mistake, that I again intrude upon your columns. I deny that the exclusive privilege granted to the New Jersey companies is a *monopoly* in that odious sense imputed to it by the “Citizen.”

It is simply a franchise, granted for a limited time, and for a fair equivalent or annual rent.

The State of New Jersey has leased to the Camden and Amboy Railroad Company, the *occupation of the route on which their road is built, for transportation by railway, of freight and passengers for an annual sum, to be paid in proportion to the business done.*

The tenant of a land proprietor, who leases for a term of years at a rent to be paid in proportion to the products raised by him, is a monopolist, if the railroad company can be properly so called.

So far as respects the people of New Jersey, the application of the term monopoly to the privileges of the Camden and Amboy Railroad Company is most palpably false in fact.

For the State of New Jersey is covered with railroads, traversing every county, and all built since the construction of the Camden and Amboy Railroad.

Railroads are built in New Jersey, (as in other States,) whenever the people ask for them, when they do not conflict with the exclusive privileges of the Camden and Amboy Railroad Company; which only applies to railroads connecting New York and Philadelphia. Hardly a session of the Legislature elapses that the grant of a railroad charter is not conceded.

The Camden and Amboy Railroad Company enjoys no monopoly of railroad privileges in New Jersey; capitalists are free to make them where they please, *except on the route already appropriated and occupied by the Camden and Amboy Railroad, for which appropriation that Company has paid, and continues to pay, according to the extent of its business.* The franchise of constructing a railroad on the particular route between the cities of New York and Philadelphia, would not, even if no contract had been entered into with the railroad company to that effect, have been disregarded. Ordinary good faith forbids the authorization

of one road or canal on the same route with another, if the proprietors of the original franchise faithfully comply with their duties to the public. The ground of one franchise is, in all cases, morally exclusive of other similar franchises in the same locality. The contract made by New Jersey with the Camden and Amboy Railroad Company merely puts into words, a principle which is morally implied in all similar cases.

In my former letter, I declined the discussion of the *validity* of the exclusive privileges of the joint companies, because I considered it *res adjudicata*. The decisions of the Courts of New Jersey, and of the Supreme Court of the United States, are conclusive on this subject.

But I may be excused for reviving the recollection of what the Supreme Court of the U. S. said in a leading case, thirty-seven years ago. I refer to the case of Gibbons against Ogden, reported in ninth volume of Wheaton.

The State of New York had granted to Livingston & Fulton the exclusive right to navigate with vessels propelled by steam the Bay of New York, and the arms of the sea adjacent. A steamboat arriving from foreign

ports, or from another State, though licensed under the navigation laws of the United States, was forfeited by the laws of New York for infringing the rights of Livingston & Fulton. The Supreme Court declared these laws of New York invalid, because they conflicted with the *exclusive right* vested in the Federal Government by the Constitution to “regulate commerce with foreign nations, and among the several States.” But the Supreme Court in this case, expressly decided, that Congress could not under this exclusive right to “regulate commerce with foreign nations, and among the several States,” interfere with a commerce wholly within a single individual State.

On page 195, ninth volume Wheaton, Chief Justice Marshall, said: “*The completely internal commerce of a State then, may be considered as reserved for the State itself.*” And again, page 203, he said: “*inspection laws, health laws, of every description, as well as laws for regulating the internal commerce of a State, and those which respect turnpike roads, ferries, &c., &c., are component parts of this mass; no direct power is granted to Congress, and consequently they remain subject to State legislation.*”

It is obvious, that if *ferries*, between two States, are subject exclusively to State legislation, much more must be railroads and canals, the termini of which are within a single State.

Soon after the completion of the Erie Canal, an officer of the United States customs claimed the right to require the canal boats to take out licenses, under the laws of United States. The Governor of New York at the time, denied the right of the Federal Government to interfere with the internal commerce of a State; and the people throughout the State expressed the greatest surprise and indignation at the assertion of any such claim by the Government of the United States. The Government became satisfied that it had no such right, as that claimed by the Government official, and the measure was abandoned forever. Governor De Witt Clinton, in a message to the New York Legislature, dated Albany, January 2nd, 1827, says, "Another attempt as futile as the former, has been made by a Custom House Collector in the West to apply the revenue laws of the United States to the navigation of the Erie Canal. It does not appear that this proceeding has re-

ceived any countenance from higher authorities, nor can it for a moment be believed, that a claim so preposterous in its assumptions, and so pernicious in its results, would at any time be encouraged in any quarter. As the spirit of internal improvement is rapidly extending in every direction, it has become a question of great moment, whether the general Government has power, with or without the consent of the State Government, to construct canals and roads in their territories, and whether such power, if not already vested, ought not to be granted? High authorities are to be found on both sides of this question; and after devoting to it all the consideration to which, from its importance it is entitled, I think it due to a sense of duty, to say, that my opinion is equally hostile to its possession or exercise by, or its investment in, the national authorities. I can perceive in it nothing less than the harbinger of certain destruction to the state governments. * * * *

As well might Congress take cognizance of agriculture, common schools, universities, penal codes, civil rights, and the whole range of local and internal regulation, as of roads and canals."

In 1830 the recollection of the blockade of the Atlantic coasts by British fleets, was fresh in the memory of the country. It was not anticipated, that in the life of any then living, the United States would have a navy, sufficient to protect our seacoast from blockade in case of a war with any of the chief maritime powers of Europe; communication between the Northern and Southern States would in that event be subject to interruption and ruinous delay. The Delaware and Raritan Canal, therefore, connecting New York and Narraganset Bays, (with the aid of the Chesapeake and Dismal Swamp Canals) with Albemarle Sound, was esteemed of great national importance; it secured with those auxiliaries a safe interior navigation from New England to the heart of North Carolina.

That the policy of constructing this great work through the instrumentality of a chartered company and not by the State of New Jersey was eminently judicious, the experience of a few years abundantly demonstrated; because it happened that for many years after the canal was completed it yielded no revenue adequate to repay the expense of its management and

repairs; to defray that expense the receipts from the railway were relied upon. Had the State of New Jersey encumbered herself with debt for the construction of the canal, during the long period that it failed to produce revenue sufficient to pay the interest of the State debt, and the cost of its annual repairs and management, popular clamor would probably have compelled its sacrifice, as Pennsylvania and Indiana were compelled to sacrifice their public works.

I have shown in my first letter how the construction of the Delaware and Raritan Canal became indissolubly connected with the construction of the Camden and Amboy Railroad, and that neither would have been built, unless all rivalry between them had been obviated by a union, and unless they had been, for a time, protected completely from all danger of competition.

The alternative was distinctly presented to the Legislature of New Jersey of 1831, whether complete protection for a time against competition should be granted, or whether the construction of those works should be abandoned. The State, after the subject had been ex-

haustively discussed, before the people, and in the halls of legislation, calmly and deliberately, influenced only by enlarged and statesmanlike views of the public good, wisely, justly, and in perfect consistency with sound principles of legislation, passed the necessary laws, conceding the required protection, and thus insured the speedy completion of these important improvements.

The charters for the canal and railroad companies were obtained, (I speak of my own personal knowledge) without the use of any other means than those of argument addressed to the judgment and patriotism of the members of the Legislature; they were not granted in corrupt compliance with the demands of a "RING," but they were sanctioned, from public considerations and for the public good alone.

I have depicted elsewhere, the condition of New Jersey in 1830, without resources to construct railroads or canals; the impossibility of obtaining the popular sanction to do either, her annual depletion by the emigration of her young men, her lands impoverished, her industry paralyzed, and progress and prosperity stagnating everywhere throughout her borders.

I say therefore, now, as I said and thought in 1830, under all the gravity of the circumstances investing the subject, that there was no alternative at which the State should hesitate; the public duty and State policy, and the general interests of the people of the State of New Jersey demanded that the State should adopt the policy proposed, confer the charters required, and concede the protection necessary to give those charters effect. The wisdom, justice, and expediency of the action of 1830 and 1831 cannot in my opinion be impugned; under similar circumstances I do not hesitate to say that the State ought to do the same now that she did in 1830 and 1831.

The clamor of mercenary speculators, or of a subsidized lobby of stipendiary politicians, who have conspired to assail the rights and character of New Jersey, should not betray her people into a momentary doubt concerning the wisdom and integrity of the Legislature which established the present system for the creation and protection of her public works. Time and the beneficial results of that system, are sufficient to vindicate the sagacity of the people of New Jersey and the legislation of 1830 and 1831.

The present generation cannot properly appreciate the overruling necessities and wants thirty-three years ago; with railroad facilities in every county of New Jersey, and tens of thousands of miles of railroad stretching in every direction, and new lines still annually projected and put in process of construction, few are able to weigh justly the destitution and poverty of improvement which everywhere then prevailed; all, too, until the veto of General Jackson of the appropriation to the Maysville and Lexington Turnpike Company were looking to the general government for assistance. At that time, there were but two insignificant railroads in the United States completed; now there are more than 30,000 miles of railroad in the United States completed, and thousands of miles are every year added thereto.

The successful completion of the Camden and Amboy Railroad gave a great impulse to the enterprise of the country. The people relied, thereafter, on the efforts of associated capital properly protected, instead of relying upon the treasury of the government. The success of the Camden and Amboy Railroad, I have shown, was owing to the exclusive privileges

conferred upon it, so that this much abused exclusive privilege, was one of the secondary causes to which the mighty march of improvement, and the developement of the boundless resources of our great country is to be ascribed.

There were insuperable objections to the State undertaking the construction of the canal, arising from geographical considerations. The canal was to unite the tide water of the Raritan and Delaware rivers; it was necessarily confined therefore to the central counties; the southern, northern and eastern counties felt no immediate local interest in its construction; and were unwilling to be taxed to confer a local benefit on the central counties alone; they were willing to vote the necessary laws to enable others to build those works, but unwilling to burden themselves for that purpose, especially when the result of the proposed works was so wholly uncertain. They did, therefore, under the circumstances, all that the people deemed it prudent to do, they granted charters and passed laws which insured the completion of the public works. They provided that the projectors of those works should contribute of their gains to the State treasury,

in proportion to their business; and they reserved the right to the State, to take those works as her own, after a limited time, at cost.

Although the companies have more than once offered to surrender their charters upon just and liberal terms, the people of the State have not been prepared or disposed to accept those offers. They wanted further time to consider the policy of assuming a charge of such magnitude.

The experience of several States in the management of railroads and canals has proved that politicians could not do as well for the State, with the public works, as they could do for themselves; New Jersey, although importuned by many to take charge of the Delaware and Raritan Canal and the Camden and Amboy Railroad seems to have determined to give herself ample time to reflect upon the policy of managing the railroad and canal through the instrumentality of politicians, or leaving them, as at present, in charge of incorporated companies.

I will venture to say, however, without claiming to be a prophet, that it will probably be a far distant day when the State of New

Jersey will find it conducive to the public welfare, for her to assume the proprietorship and management of any railroad or canal; although I well know that every railroad charter granted by the Legislature reserves to the State the right to take the railroad provided for, on payment of cost.

And this brings me to a brief reference to some of those moral and political considerations, which, much more than the question of revenue, and dollars and cents, determined the action of New Jersey in 1830 and 1831.

In 1830, the people of New Jersey were for the most part an agricultural people; there was not then any city, but Newark, which had grown to be beyond a respectable village, and Newark was only a thriving, manufacturing town; the farms were small, and wealth was confined to a very limited number; the habits, tastes, and manners of the people were plain and frugal, and morality and virtue held in high esteem. The rapid growth of wealth and corruption in the neighboring States, had not contaminated the simplicity and republican equality which everywhere prevailed in New Jersey. But the public men and reflect-

ing minds in New Jersey, had perceived the demoralization and deterioration of virtue, which already began to be flagrant in those States in which lavish expenditures for internal improvements and vast State patronage, incidental to State management of public works had taken place. Particularly, they had marked the headlong and reckless precipitancy with which corrupt demagogues had plunged the noble State of Pennsylvania into the vortex of enormous debt. This career of profligacy and crime was viewed in New Jersey with horror and disgust. Our New Jersey fathers had taught us to beware of profuse public or private expenditures. They taught us, that luxurious habits, and reckless extravagance were incompatible with that virtue which alone could secure stability to republican government. Our people were educated into an unconquerable aversion to public debt; and the only path to popularity in New Jersey was by the advocacy of economy in the State expenditures.

The whole cost of the State government seldom in those years exceeded \$30,000 per annum. To talk to such a people about the policy

or wisdom of contracting a debt of five or six millions was to subject yourself to contempt. It was a fundamental axiom in New Jersey politics that a State debt was a State curse; that nothing but war or some other inevitable calamity would ever justify a State debt of any considerable magnitude. The people of New Jersey fully appreciated the value and importance of internal improvement, they were unwilling, however, to incur the danger and responsibility of encumbering the State with a debt for that purpose. They therefore delegated to incorporated companies the authority to make the Railroad and Canal. They did so from a sense of duty, founded on considerations of sound State policy. As I said before, the rights and privileges of those companies were not obtained by corrupt legislation, they were not conferred as a favor to any particular corporators or individuals, but for the purpose of improving the condition of the people at large, of developing State resources, and augmenting the State revenue.

The men who were sagacious enough to inaugurate the Internal Improvement policy of New Jersey were substantial citizens, whose

property consisted, not so much in money and goods, as in lands and children. They acted from public considerations as much as from motives of personal interest; and their successors are now more solicitous to preserve unimpaired and unimpeached the good name of their predecessors than to increase their own wealth or popularity.

Those persons who have assailed their policy and charters have been chiefly adventurers from other States, having no interest in the welfare of New Jersey, and even those in New Jersey who have been their servile instruments, have been, for the most part, men without any interest in the soil of New Jersey, who could at any time swim the ferries with all their worldly possessions on their backs, leaving the farmers and other worthy people of the State to reap the fruits of their iniquity.

Undoubtedly a vast change for the worse has taken place in the morals of the people of the United States within the last thirty years. In my humble opinion, that change has been produced, in a great measure, by the reckless extravagance of State expenditures for internal improvement.

Had New York, Pennsylvania, Ohio, Virginia and Indiana adopted the policy of New Jersey, they would not probably have been the scenes of such stupendous profligacy as have characterized their halls of legislation within the last quarter of a century.

There is a vital sympathy between the morality of the government and that of the people. If the halls of the legislature are surrendered to the control of plunderers and robbers, we must not wonder that corruption stalks, naked, in the streets.

The deterioration of the national morals, if it continues with the same rapid progress downwards, much longer, will be fatal to liberty. The appetency for wealth, to be obtained through the instrumentality of legislation, at the expense of the public, will soon render the rights of property utterly insecure. And when that stage of demoralization is reached, property will seek refuge under a government which will protect it, and not be a party to its spoliation.

In the good old fashioned times of 1830, if it had been predicted that the debt of New York City would in thirty years increase at the

rate of two and three millions a year, no one would have had any faith in the prophet. But now, so utterly depraved have the governments of more than one city of the United States become, that it is asserted, without contradiction, that in the United States, municipal government in the cities, is an utter failure.

In those days when the Delaware and Raritan Canal and Camden and Amboy Railroad charters were granted, virtue, honor, and public spirit predominated in our legislative councils. Now, in some states, (but not in the state of New Jersey,) it is said, no sooner is the Legislature elected, than a *ring*, as it is called, is formed, and every charter and every application to the Legislature, from which money is expected to be made, is *black mailed* to contribute to the pockets of the *ring*.

But where stands New Jersey in this state of general *obliquity*? Notwithstanding the unjust reproaches with which, from time to time, her fair fame and patriotism have been assailed, there she is; though small in territory, she yields to none in wisdom, honor, virtue, and patriotism.

It may be truly said of her, that, while she

has borne her full proportion of the burdens of the Government, of its direct benefits she has asked little and received less. Still, there she stands, this day, as of old, heart and hand, with her treasure and her resources, and her blood, pledged to the Union of the States.

Very truly yours.

R. F. STOCKTON.